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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/764,639	01/26/2004	George Kenneth Adleman JR.	A12: 1032	9110

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EXAMINER

PATEL, KIRAN B

ART UNIT PAPER NUMBER

3612

DATE MAILED: 02/11/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/764,639

Applicant(s)

ADLEMAN, GEORGE KENNETH

Examiner

Kiran B. Patel

Art Unit

3612

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 December 2004.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-26, 29 and 30 is/are pending in the application.
- 4a) Of the above claim(s) 14 and 15 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4, 9-13, 16-22, 24-25, 29-30 is/are rejected.
- 7) ☐ Claim(s) 5-8 and 23, 26 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Non-Final Rejection

Election/Restriction

1. Applicant's election of Group I, Species A, Fig 1-5, 8-27 and claims 1-13, 16-26, 29-30, is acknowledged.

Claims 14-15 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected Species, there being no allowable generic or linking claim.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-3, 18-20, 29 are rejected under 35 U.S.C. 102(b) as being anticipated by Lessard (5,522,685).

Regarding claims 1-3, 18-20, 29, Lessard (5,522,685) discloses in Fig. 1-7 the invention as claimed to include a cargo bed Fig 1, a first 22 and a second 22 attached member, a first 20 and a second 20 movable member, a cross member 18, a first 28 and a second safety latch 28, and means 28 for securing each telescoping sections.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 4, 30, are rejected under 35 U.S.C. 103(a) as being unpatentable over Lessard (5,522,685) in view of Wheeler, III (6,244,646).

Regarding claims 4, 30, Lessard (5,522,685) discloses the invention as claimed.

However, Lessard (5,522,685) does not disclose a lifting block and means for elevating attached member.

Wheeler, III (6,244,646) discloses in Fig 1-14 a lifting block 122 and means 122 for elevating attached member.

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the invention, as disclosed by Lessard (5,522,685), to include a lifting block and means for elevating attached member, as disclosed by Wheeler, III (6,244,646), to elevate rear end of each attached member.

4. Claims 9-13, 21-22, 24-25, are rejected under 35 U.S.C. 103(a) as being unpatentable over Lessard (5,522,685) and in view of ordinary skill in the art.

Regarding claims 9-13, 21-22, 24-25, Lessard (5,522,685) discloses the invention as claimed to include means for keeping the rear end of each attached member above the level of the truck bed Fig 1, and holes at selected distances 50.

However, Lessard (5,522,685) does not disclose the first and second attached members consists of schedule 10 steel pipe and between 5-8 feet long, the first/second movable members and cross member consists of schedule 40 steel

pipe and 5-8 feet long, and the area near the front/rear of the bed is within one foot of the front/rear end of the cargo bed.

It would have been obvious to one having ordinary skill in the art at the time the invention was provide the first and second attached members consists of schedule 10 steel pipe and between 5-8 feet long, the first/second movable members and cross member consists of schedule 40 steel pipe and 5-8 feet long, and the area near the front/rear of the bed is within one foot of the front/rear end of the cargo bed, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use to optimize the cost of the product made in light of size, availability, capacity to manufacture, manufacturing technology, transportability, optimize the number of parts, safety and other considerations and still meet the design specifications. Higher level of cost efficiency can be achieved by identifying the required material from materials known/available in the open market than to develop new material.

5. Claims 16-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lessard (5,522,685) in view of Stanley (5,829,945).

Regarding claims 16-17, Lessard (5,522,685) discloses the invention as claimed.

However, Lessard (5,522,685) does not disclose a safety latch.

Stanley (5,829,945) discloses in Fig 1-20 a safety latch 30.

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the invention, as disclosed by Lumley et al. (5,630,645), to include a safety latch, as disclosed by Stanley (5,829,945), to safely latch the attached and the movable member.

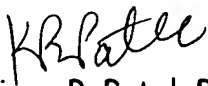
Allowable Subject Matter

6. Claims 5-8, 26 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

7. The prior art made of record in attached Notice of Reference Cited (PTO-892) and not relied upon is considered pertinent to applicant's disclosure. This art of record shows various features similar to the applicant's invention.

8. Any inquiry concerning this communication or earlier communications should be directed to Primary Examiner Kiran B. Patel whose telephone number is 703-305-0254. The examiner can normally be reached on M-F from 8:00 to 5:00. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.


Kiran B. Patel, P. E.
Primary Examiner
Art Unit 3612
February 8, 2005